

**DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 04-0390
Sales Tax for Period Ending 11/30/2002**

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ISSUE

Sales Tax—Casual sale; isolated sale

Authority: IC 6-8.1-5-1(b); IC 6-2.5-2-1; IC 6-2.5-6-1; 45 IAC 2.2-1-1(d).

Taxpayer protests the assessment of sales tax on an asset it sold in the course of its business.

STATEMENT OF FACTS

Taxpayer is a for-profit Indiana S-corporation that sells and installs manufactured housing. In 1999 Taxpayer purchased a manufactured home which it used as an office. Taxpayer later sold the asset. The Department conducted an audit and found that although Taxpayer primarily operated as a lump sum contractor, it did collect but did not remit the sales tax due on the sale of this manufactured home. The Department assessed the sales tax due that should have been remitted. Taxpayer filed a protest, stating that no sales tax was due on the sale of the asset.

Sales Tax—Casual sale; isolated sale

DISCUSSION

All tax assessments are presumed to be accurate; the taxpayer bears the burden of proving that an assessment is incorrect. IC 6-8.1-5-1(b). IC 6-2.5-2-1 imposes sales tax on retail transactions made in Indiana. The retail merchant is required to collect the sales tax as agent for the state. *Id.* IC 6-2.5-6-1 requires a merchant to remit to the Department the sales tax it has collected on behalf of the State.

Taxpayer asserts that when it sold the manufactured house that had been used as an office, it sold an asset and for this reason sales tax was not due on the sale. 45 IAC 2.2-1-1(d) states:

Casual Sales. The Indiana gross retail tax is not imposed on gross receipts from casual sales except for gross receipts from casual sales of motor vehicles and sales of rental property. A casual sale is an isolated or occasional sale by the owner of tangible personal property purchased or otherwise acquired for his use or consumption, where he is not regularly engaged in the business of making such sales.

Taxpayer is in the business of selling manufactured housing. The sale of the house that previously served as an office was not a casual or isolated sale because the sale of manufacturing housing is Taxpayer's business. For this reason, sales tax was due on the sale to the customer and Taxpayer was required by Indiana law to submit the sales tax.

FINDING

For the reasons stated above, Taxpayer's protest is denied.

AAG/JMM—051210